

DOCKET NO.: NNH-CV16-6063111-S	:	SUPERIOR COURT
	:	
MARK O’CONNOR	:	JUDICIAL DISTRICT OF
	:	NEW HAVEN AT NEW HAVEN
VS.	:	
	:	
TOWN OF GUILFORD	:	APRIL 6, 2017

AMENDED COMPLAINT

With the consent of the defendant, the plaintiff submits its amended complaint in accord with Practice Book Section 10-60.

Introductory Allegations

1. The plaintiff Mark O’Connor, is employed as a police officer by the defendant Town of Guilford. The plaintiff resides at 292 County Road, Madison, Connecticut 06443.
2. The defendant, Town of Guilford, is a municipal corporation with a principal place of business located at Town Clerk’s Office, 31 Park Street, Guilford, CT 06437.
3. At all relevant times Jeffrey C. Hutchinson has been the Chief of Police of the Guilford Police Department.
4. At all relevant times John E. Dunn has been the Deputy Chief of Police of the Guilford Police Department.

First Count – Age Discrimination – Conn. Gen. Stats. Sec. 46a-60(a)(1) – Against the Town of Guilford

5. At all times relevant hereto the plaintiff has been an “employee” of the Town of Guilford as that term is defined in the relevant statutes.
6. At all times relevant hereto, the Town of Guilford has been the plaintiff’s “employer” as that term is defined in the relevant statutes.
7. The plaintiff has been employed as a police officer by the Town of Guilford since 2000.
8. The plaintiff’s birthday is September 23, 1956.
9. At 59 years old, the plaintiff is the oldest patrol officer in the Guilford police department.

10. Prior to becoming a police officer with the Town of Guilford the plaintiff was employed as a police officer by the City of New Haven for 21 years and he retired in good standing.
11. During his police career the plaintiff has worked as a detective, an accident reconstruction investigator, a SWAT team member, a field training officer, a DWI instructor, and a bicycle officer. He has worked with Yale Child Studies, and he has been part of the CD-CP Childhood Development Community Policing program. He has also received an award from Mothers Against Drunk Driving for his motor vehicle enforcement against drunk driving.
12. During his career with the Guilford Police Department the plaintiff received multiple accolades from superiors, the state's attorney's office, and community members, as well as commendations from the Guilford Police Department. In 2000, Chief Kenneth Cruz praised him for his performance and acknowledged that he is a self-motivator. In 2005 Yale University professor Ian Shapiro acknowledged the plaintiff's commitment to a particular case and recognized him for his "professional commitment and humane wisdom" that went "beyond any reasonable description of the call of duty." Deputy Chief Dunn acknowledged to the plaintiff that the plaintiff has a "great" personnel file.
13. The plaintiff has been recognized by his peers for his leadership abilities, serving two terms as president of the Guilford police union and seven terms as chief steward.
14. Throughout his career with the Town of Guilford the plaintiff has received the highest department evaluations of his work.
15. Section 2.26 of the Guilford Police Duty Manual states that "Performance Appraisals will be an important factor in the promotion, job assignment, career development, retention, training assignments, as well as other career actions of the employee being evaluated."
16. The plaintiff has a bachelor's degree.
17. The plaintiff is a second degree Black Belt in Judo and Tae Kwon Do. He is a brown belt in Brazilian Jiu-Jitsu.
18. In March, 2015 the plaintiff took a competitive promotional examination for the position of sergeant within the Guilford Police Department.
19. Following the completion of the examination process the Town produced a promotional list. The plaintiff placed first on the promotional list.

20. The Town of Guilford utilizes the so-called “Rule of Three” for promotion to the position of police sergeant in its police department. By that rule, the Town may choose to promote a sergeant from the top three candidates on the sergeant’s promotional list.
21. By action of the Town of Guilford Board of Police Commissioners, based upon the recommendation of Dunn and Hutchinson, the Town of Guilford promoted police officer Chris Massey to the position of sergeant on May 5, 2015, effective May 6, 2015.
22. Sgt. Massey finished second on the promotional list. At the time Sgt. Massey had been a Guilford police officer for only seven years. He had never held the position of detective.
23. Sgt. Massey is thirty years younger than the plaintiff. He was 29 years old at the time of the promotion, and was hired by the Guilford Police Department on January 21, 2008.
24. At the time of his promotion, Sgt. Massey had no known significant workplace injuries.
25. In 2007 the plaintiff was removed from the SWAT Team ostensibly for requesting a vest waiver although he was later informed by the team commander that he had been removed because the administration of the Guilford Police Department wanted “younger blood” on the SWAT team. The plaintiff filed a complaint with the Connecticut CHRO alleging age discrimination following that act of discriminatory conduct by the town.
26. During the administrations of former Police Chief Thomas Terrible, and his successor, Chief Hutchinson, the plaintiff has been regularly denied requests for training. Had that training been provided to the plaintiff it would have improved his qualifications for promotion to the position of sergeant.
27. Section 2.34 of the Guilford Police Duty Manual states: “Equal Employment Opportunity: All personnel actions, including hiring, promotion, demotion, transfer, recruitment, advertising, layoff, discharge, pay changes, and selection for training will be made without regard for race, creed, national origin, gender, age, religion, political affiliation, physical ability, or mental ability (except when age, gender, physical ability, or mental ability constitute bonafide occupational qualifications necessary to essential, proper, and efficient functioning in a position).”
28. The defendant’s actions as aforesaid in denying a promotion to the plaintiff in May, 2015 was in part related to a retaliatory animus associated with the plaintiff’s prior age discrimination complaint.

29. The defendant's actions as aforesaid in denying a promotion to the plaintiff in May, 2015 was discriminatory based upon the plaintiff's age as he was the superior candidate for promotion based upon his experience, evaluations, performance, and testing.
30. On or about October 13, 2015 the plaintiff filed a complaint alleging retaliation and discrimination against the defendant Town of Guilford with the Connecticut Commission on Human Rights and Opportunities, and notified the Town of Guilford of the complaint on that date.
31. On the evening of October 13, 2015 the plaintiff was once again denied a promotion to the position of sergeant in the Guilford Police Department in favor of Officer Fasulo. As set forth above, the plaintiff was the superior candidate to Officer Fasulo.
32. The plaintiff was bypassed for promotion by the defendant on October 13, 2015 based upon his age, and in retaliation for filing his age discrimination complaint with the CHRO on October 13, 2015.
33. On or about February 28, 2016 the plaintiff was skipped once again for promotion to the position of sergeant in the Guilford Police Department. This time the Town chose to promote Matthew Larsen to the position of sergeant. Larsen is younger than the plaintiff, has less time in service as a police officer with the Guilford Police Department than the plaintiff, and is less qualified for the position of sergeant than the plaintiff, including but not limited to the fact that he has not yet attained a four-year college degree.
34. The plaintiff was bypassed for promotion by the respondent on February 28, 2016 based upon his age, and in retaliation for filing an age discrimination complaint with the CHRO on October 13 2015.
35. On August 23, 2016 the plaintiff was once again bypassed for promotion to the position of sergeant in favor of Detective Martina Jakober who scored eleven fewer points than the plaintiff on the written portion of the sergeant's exam (92 to 81), who does not have a college degree, who is only forty years old, and who only has twelve and one half years' police experience with the Guilford Police Department. By every measure, the plaintiff is more qualified than Ms. Jakober for promotion to the position of sergeant, and the plaintiff was ranked higher than her on the promotional list.
36. The actions of the defendant Town of Guilford as aforesaid constitute age discrimination in violation of Conn. Gen. Stats. Sec. 46a-60(a)(1).
37. The plaintiff filed a claim for age discrimination with the Connecticut Commission on Human Rights and Opportunities on October 13, 2015 against the

Town of Guilford, and amended that complaint on or about January 8, 2016 and again on or about April 25, 2016.

38. On April 26, 2016 the plaintiff received a Release of Jurisdiction from the CHRO allowing him to pursue his claims for age discrimination against the defendant Town of Guilford before this court. This court therefore has jurisdiction over the matter.
39. The plaintiff filed a second complaint with the CHRO in regard to the Jakober promotion on or about January 26, 2017. The plaintiff received a release of jurisdiction from the CHRO on or about March 7, 2017. This court therefore has jurisdiction over the matter.
40. As a result of the discriminatory conduct of the Town of Guilford as perpetrated by its agents acting on its behalf as alleged herein, the plaintiff has suffered economic and non-economic damages including lost wages and benefits, loss of status, humiliation and distress associated therewith, and damage to reputation. The plaintiff claims all damages to which he is entitled including but not limited to monetary damages, economic damages, non-economic damages, compensatory damages, punitive damages, and attorney's fees.

Second Count - Retaliation – Conn. Gen. Stats. Sec. 46a-60(a)(4) – Against the Town of Guilford

- 1-39. The plaintiff realleges those allegations set forth in Paragraphs One through 39 of the First Count of the Complaint in this the Second Count of the Complaint as if fully set forth herein.
40. The defendant refused to promote the plaintiff in part because he sought to vindicate his rights against discrimination through the filing of complaints with the CHRO and this court. The actions of the defendant Town of Guilford as aforesaid in refusing to promote the plaintiff to the position of police sergeant because the plaintiff filed complaints of discrimination in 2007 and again in October, 2015, January, 2016, and April, 2016, as well as this action in June, 2016 constitute illegal retaliation in violation of Conn. Gen. Stats. Sec. 46a-60(a)(4).
41. As a result of the retaliatory conduct of the Town of Guilford as perpetrated by its agents acting on its behalf as alleged herein, the plaintiff has suffered economic and non-economic damages including lost wages and benefits, loss of status, humiliation and distress associated therewith, and damage to reputation. The plaintiff claims all damages to which he is entitled including but not limited to monetary damages, economic damages, non-economic damages, compensatory damages, punitive damages, and attorney's fees.

Third Count - Discrimination – Conn. Gen. Stats. Sec. 31-290a – Against the Town of Guilford

- 1-7. Paragraphs one through seven of the First Count are made paragraphs one through seven of this the Third Count as if fully set forth herein.
- 8-25 Paragraphs ten through twenty seven of the First count are made paragraphs eight through twenty five of this the Third Count as if fully set forth herein.
26. Paragraph 31 of the First Count is made paragraph 26 of this the Third Count as if fully set forth herein.
27. Paragraph 33 of the First Count is made paragraph 27 of this the Third Count as if fully set forth herein.
28. Paragraph 35 of the First Count is made paragraph 28 of this the Third Count as if fully set forth herein.
29. Prior to their promotions, neither Fasulo nor Larsen nor Jakober had any known significant workplace injuries.
29. On January 8, 2011, the plaintiff suffered a workplace injury while pushing a disabled motor vehicle off the road. Said injury was suffered in the course of his duties as a police officer and was determined to be a compensable injury by the Workers Compensation Commission pursuant to applicable workers compensation statutes.
30. As aforesaid, the plaintiff injured his right Achilles tendon for which he required intense treatment, surgery, and therapy, and for which he lost significant time from work.
31. On January 12, 2011 the plaintiff suffered a workplace injury to his left hamstring, but that injury did not require any lost time from work.
32. The defendant Town of Guilford failed and refused to promote the plaintiff to the position of sergeant in part because he pursued his claims for workers' compensation benefits against the Town, and he was required to miss significant time from work while rehabilitating from his injuries.
33. The actions of the defendant Town of Guilford as aforesaid in refusing to promote the plaintiff to the position of police sergeant because the plaintiff filed workers compensation claims constitute illegal discrimination in violation of Conn. Gen. Stats. Sec. 31-290a.
34. As a result of the discriminatory conduct of the Town of Guilford as perpetrated by its agents acting on its behalf as alleged herein, the plaintiff has suffered

economic and non-economic damages including lost wages and benefits, loss of status, humiliation and distress associated therewith, and damage to reputation. The plaintiff claims all damages to which he is entitled including but not limited to monetary damages, economic damages, non-economic damages, compensatory damages, punitive damages, and attorney's fees.

WHEREFORE, THE PLAINTIFF CLAIMS:

1. Monetary Damages;
2. Compensatory Damages;
3. Punitive Damages;
4. Economic Damages;
5. Non-Economic Damages;
6. Attorney's Fees;
7. An order to cease discriminatory conduct and to be made whole;
8. Any such other relief as in law or equity may be allowed.

THE PLAINTIFF,
MARK O'CONNOR

/s/ 408630 – Eric R. Brown

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STATEMENT OF AMOUNT IN DEMAND

The amount in demand is greater than Fifteen Thousand Dollars exclusive of interest and costs.

THE PLAINTIFF,
MARK O'CONNOR

/s/ 408630

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CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on 4/6//17 to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

/s/ 408630
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